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June 4, 2020

Robert Corbisier, Executive Director
Alaska State Commission for Human Rights
800 A Street, Suite 204
Anchorage, AK 99501-3669

Sent via Electronic Mail and USPS Certified Mail

Subject: Response to May 22, 2020 Letter

Dear Mr. Corbisier,

Our office received your letter, dated May 22, 2020 in which you indicate that the Commission is treating the complaint filed by our client—Bristol Bay Area Health Corporation (BBAHC)—with the Commission by letter on May 13, 2020 as merely an “inquiry” with the Commission. We have discussed this response with BBAHC and find your letter disappointing at best and at worst an abdication of the Commission’s responsibilities under applicable law.

First, the letter wrongly frames the issue of confidentiality under AS 18.80.115. The statute places confidentiality obligations on the Commission, not on a complainant. We remind you that BBAHC, and the State of Alaska, is in the midst of a declared public health emergency. Lives are at stake with each passing day. While the Commission has an obligation to maintain confidentiality, the law places no such restriction on BBAHC, which has its own obligation to protect the health of its member villages, and the Bristol Bay region, through sharing information and coordinating agency responses, among other duties. In the midst of a pandemic, a tribal health organization should never be encouraged by a State agency to keep its valid health concerns “confidential,” which your letter seems to wrongfully suggest.

The letter seems to argue that because Alaska Natives in Bristol Bay are not the only villages or people impacted by the opening of the fishery during a global pandemic, there could be no racial, national origin, or other discrimination worthy of investigation by the Commission. This approach would, by logical extension, mean that in a matter where the discriminatory impacts of a State action are widespread enough, the Commission has no reason to investigate.

Similarly, your letter indicates because the Health Mandates are statewide in nature, they cannot, by definition, be discriminatory. This ignores the points raised by BBAHC that non-fishing communities off the road system have rights to protect the health of their residents with travel restrictions, while the State has stripped those rights for Bristol Bay villages due their

proximity to a valuable fishery. The letter intimates, while providing no evidence, that non-Natives are more threatened due to COVID-19 in Bristol Bay than Alaska Natives—an incendiary remark from the Executive Director of a Commission devoted to human rights, given the massive loss of Alaska Native life during the last pandemic to sweep Alaska in 1918.

Your letter also seems to indicate that Alaska Natives cannot be discriminated against on racial, or national origin grounds, because their status is a political one as sovereign nations of the United States. The reasoning in your letter provides ammunition for every employer, bank, landlord, local government, service provider, and State agency to now actively discriminate against Alaska Natives since you have unilaterally, as the Executive Director of the Commission, decided that Alaska Natives cannot suffer discrimination within the State. This position ignores the entire history of the Anti-Discrimination Act of 1945 in Alaska, which birthed every other anti-discrimination law and policy in Alaska (including the Commission), and which stemmed from work by Elizabeth Peratrovich on behalf of Alaska Natives statewide.

Finally, your letter is confusing on its face. It concludes, for all the reasons listed above, that the Commission has no jurisdiction to pursue this matter, but that it will treat it as “an inquiry.” You then cite to 6 AAC 30.031 as authority that any subsequent filing by BBAHC will be dismissed by the Commission. You have essentially indicated that the Commission is inaccessible to Alaska Natives going forward—a group that constitutes +/- 20 percent of the State. This abdication of the Commission’s responsibility is especially tone-deaf given the current news cycle where individuals across the country, including Alaska, are protesting both overt and covert discrimination that has long permeated our society and government institutions.

A Commission dedicated to human rights should have staff and leadership that views its charge and responsibilities as broadly as possible. Even when the Commission could not prove discrimination in the past, it has used its authority to mandate training and policy revisions that are beneficial to public policy. In this case, the Commission has the capacity to provide guidance to the Governor—as one example—on how to engage with Alaska Native communities affected by Health Mandates prior to their issuance, at a minimum.

We urge you to reconsider the approach laid out in your May 22, 2020 letter. Specifically, we ask that you raise what you characterize as BBAHC’s “inquiry” to the status of a formal complaint so that that Commissioners themselves can direct your agency to properly pursue this matter, particularly given the health risks involved in the State’s unilateral decision impacting Alaska Natives in Bristol Bay and other fishing villages within the State.

Sincerely,

A handwritten signature in blue ink, appearing to be 'G. Strommer', written over a horizontal line.

Geoff Strommer

Craig Jacobson

HOBBS, STRAUS, DEAN & WALKER, LLP